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Inconstitutionality of the state of siege

The first legal challenge to the constitutionality of the state of siege was presented last month in the case of Domingo Laíno, the opposition leader who was denied habeas corpus and sentenced to an extrajudicial "confinement" in Mbuyapey, department of Paraguari, under the state of siege September 20.

The defense statement pointed out irregularities in the application of the measure: there was no written order for his arrest, no justification in terms of international conflict or internal commotion; he was confined in an area not covered by the state of siege; and the measure itself "was instituted as an exceptional measure, but through successive extensions it has been applied for 25 consecutive years. This has distorted its purpose, by making it a permanent state."

"The Supreme Court faces a hard choice," said a *La Tribuna* headline (September 26). "To deny the action would be to abdicate its responsibility to oversee the actions of the other branches of government. To admit it would have undeniable political consequences and would mean a real change in national political life." The court has not responded so far to the challenge.

The lawyers also reported that Laíno is not "confined" in Mbuyapey -- which would imply considerable freedom of movement and association within the town -- but imprisoned, under restrictions which vary from day to day. The lawyers, political associates, reporters, and friends who come daily from Asunción (2-1/2 hours away by car) are sometimes admitted, sometimes not. Those who are excluded have been forced to wait under police guard.

"An absolutely sovereign decision"

Eight North American congressmen, and 130 Brazilian legislators, criticized the detention without trial of the political economist. From Sao Paulo, Brazil, Cardinal Paulo Evaristo Arns expressed surprise that "declarations made in Brazil, which caused no negative reaction here, caused Laíno's imprisonment in Paraguay."

On September 27, U.S. Ambassador Robert E. White expressed his government's concern over this "step backwards" for human rights. On October 3, Interior Minister Sabino A. Montanaro, acting as interim foreign minister, replied

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 ARGENTINA PROJECT (S200000044)
 U.S. DEPT. OF STATE; A/RPS/IPS

Margaret P. Grafeld, Director

☒ Release ☐ Excise ☐ Deny

Exemption(s): _____

Declassify: ☐ In Part ☐ In Full

☐ Classify as _____ ☐ Extend as _____ ☐ Downgrade to _____

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that his government had acted "strictly within constitutional and legal norms". Montanaro, who as Interior Minister had ordered Laíno's detention, added that the U.S. comments were "a flagrant intromission to judge the motivations of an absolutely sovereign decision of the Government... a legitimate decision which requires no explanations." The criticism was based, he said, on erroneous and incomplete information: "that is the only explanation when a markedly reasonable decision to protect the higher interests of the nation is interpreted as a 'step backwards' in the Paraguayan Government's longstanding efforts to improve the integral protection of human rights..." (ABC, October 4, 1979).

Rabi-Vasconsellos: theatre of the absurd

We reported in September on the alleged abduction to Brazil of Dr. Julio César Vasconsellos, lawyer for the international financier Eduardo Rabi. Rabi is accused of fraud by Guaraní Cambios, an enterprise of Gen. Andrés Rodríguez (whose daughter is married to Stroessner's son, and who is considered number two in the military hierarchy). Dr. Sara Rivas de Vasconsellos, the exiled lawyer's wife, has taken over the case, but it was interrupted by the transfer of Rabi to a hospital for an emergency operation. While conciliation proceedings between Rabi and Guaraní Cambios continued, Mrs. Vasconsellos has flamboyantly discussed the case with the press and with one of the judges involved, as in this anecdote (the judge is not identified in the report):

Vasconsellos: "What they've done to Rabi is ridiculous, they're going to kill him with all this." Judge: "Watch your words, doctora." Vasconsellos: "The fact is that here they use a big stick for the law, and the law as a big stick." Judge: "Shut up, or I'll have you arrested." Vasconsellos: "Go ahead, that's all that was lacking, to eliminate all your lawyers they way you did my husband." The shouting match reportedly ended with the abrupt withdrawal of the judge (Hoy, September 25).

From Sao Paulo (Mr.) Dr. Vasconsellos formally requested the trial and removal of judge José Francisco Appleyard, who is handling the accusation lodged against him as a subversive after his kidnapping. Vasconsellos accused the judge of complicity in the abduction, because he had not proceeded on the basis of Vasconsellos' denunciation of the incident (ABC, September 29). Appleyard was slow to respond, saying, "I'll take all the time the law allows, and if I don't answer, Sarita is sure to have me tried and arrested" (ABC, October 5).

The Supreme Court rejected the challenge, based on procedure: the denunciation should have been presented in writing, and Vasconsellos had made it by telegram from Brazil. Said Vasconsellos: "Of course I expected this decision, obviously the pressure (on the court) is great." He added that the law of telecommunications "indicates that a telegram has the same effect as if it had been personally presented." He also referred to other cases where the same court has accepted telegraphed communications (ABC, October 6).

The government published international reports that Eduardo Rabi was sought by the police in Switzerland, Canada, Denmark, Belgium, Italy and Israel under the names of Jack Bender and Elie Rabiea (Ultima Hora, September 15). (Mr.) Vasconsellos replied from Brazil that "this cannot have judicial implications" in Paraguay. "I put it that way, because if it is true, it still does not attenuate or justify what they are doing to Mr. Rabi in Paraguay" (Ultima Hora, September 17).

Editorial commentary: Paraguay has a long history of international criminals who suddenly appear at the highest levels of national commerce. It also has seen apparently innocent individuals -- whose only crime was having crossed a high local or national official -- pointed out as international criminals, with pseudonym and all. We won't know which of the two applies to Rabi, until the government takes one of the two steps universally approved in such cases: to arrange his extradition to one of the countries that supposedly seek him, or try him in Paraguay with all the appropriate judicial guarantees. Nor will we know whether Vasconsellos' removal is a violation of the rights to defense and personal security, unless the judge considers his report that he was kidnapped, on the merits of the case.

What Paraguay needs is a Kafka or a Borges, to do literary justice to the judicial labyrinth. Until one appears, (Mrs.) Dr. Vasconsellos has turned a phrase worth laughing and thinking about: the big stick as law, and the law as a big stick.

Trials and releases

In the case of Dr. Joel Filártiga (father of Joelito, who died in 1976) against police officer Américo Peña Irala: on October 1 the mother in-law of Hugo Derlis Duarte Arredondo testified in favor of the official theory that Duarte Arredondo had killed Joelito Filártiga out of jealousy over an alleged affair between his wife and neighbor Filártiga (ABC, October 2). The Supreme Court accepted the case this year, after officer Peña was arrested in New York and it appeared he might be tried here, on the request of Filártiga's sister, Dolly.

In the case against police officer Lucio Sosa Cardozo, who admitted killing Agustín Bareiro Amarillo in September 1978: on October 5 the victim's body was exhumed to see whether he had died of one shot (as Sosa claims) or two (which under Paraguayan law would indicate malicious intent). Sosa testified that he killed Bareiro when the latter resisted arrest. The results will be given soon to Judge Appleyard (ABC, October 6).

In the case against the officials of Santa Rosa, Misiones, who allegedly raped a young woman who had come for a good conduct certificate on December 23 while they were having a Christmas party: Judge Antonio Escobar rejected a challenge against the rural judge who accepted the denunciation, but who was allegedly present during the incident (*Ultima Hora*, September 12). Three police recruits are being held in connection with the rape, but they have blamed higher officials in the Santa Rosa police station.

By chance or not, the three cases -- against Peña, Sosa and the Santa Rosa officials -- were lodged by the families with advice from Dr. Mario Melgarejo and his colleague, Dr. Celso Castillo Gamarra. All three deal with accusations of abuse of authority, and two of them -- the death of Bareiro and the rape in Santa Rosa -- led to the first two street demonstrations in recent memory against such abuses. The demonstrations were later cited as evidence in the case against Melgarejo on grounds of mutiny. The recent movement in all three cases is barely perceptible, but it does appear to indicate new life in the court as a result of the confirmation of the Supreme Court judges for 1978-83, which was announced in August 1979.

The government has published its case against Alfonso Silva and María Sātūr-nina Almada, who were charged under law 209 last June. The couple had been in prison from 1968 to 1978 without trial; released last year, they were arrested again in May 1979. The police report indicates that in 1959 Silva joined the United National Liberation Front in Brazil, where the subjects of discussion were "unmasking the character of the Stroessner dictatorship", 'the imbalance between the three branches of Government', 'the existence of a minority group of 1500 latifundistas', and 'landless peasants'. They are also alleged to have received political training at the University of Moscow in 1966-67 (*La Tribuna*, September 2).

Coronel in chains

There has been no movement in the case of Constantino Coronel, who was imprisoned from 1976-78, freed without a verdict, and rearrested this year after a failed assassination attempt. With his court case apparently paralyzed, we understand Coronel is being held in chains, seriously ill, in the Encarnación jail.

Four prisoners freed

The freedom of Amílcar Santucho and Severo Acosta, September 22 and October 8 respectively, has been confirmed. Santucho, an Argentine citizen and brother of a guerrilla leader there, went to Sweden under the auspices of the UN High Commission for Refugees. About Acosta, who has been in prison without trial for 15 years, we only know that he was released in Paraguay without the return of his identity documents.

Several days later two Argentine prisoners were freed: they were detained August 4 under the names of Enrique and Ofelia Landi, but by official reports their real names are Julio Regino Domínguez Funes and Marizza Estela Pizarro. Their son Andrés Domínguez Pizarro (Toto Landi) brought international attention: the Mexican Embassy asked for custody of the 3 year-old boy, who was born in Mexico, and who apparently had been handed over to a police officer's family. By various reports the parents were arrested for subversion or for carrying false identity documents, but were never charged. We have no news about the other Argentines arrested in August.

More about the disappeared

On October 4, Amnesty International presented to the Paraguayan Supreme Court a report on the deaths in November 1975, in police custody, of three Communist Party leaders: Miguel Angel Soler, Derlis Villagra and Rubén González Acosta.

On the next day Interior Minister Sabino A. Montanaro said that the reports were "absolutely false". According to Montanaro, Soler had been abroad many years and had finally gone from Montevideo to the Soviet Union; Villagra was imprisoned from 1965 to 1972, but left the country and never returned; González Acosta "is totally unknown to the security forces of the State, never was arrested, and we have no police reports on him" (*ABC*, October 6).

On August 19, Radical Liberal legislator Ligia Prieto de Centurión asked for government intervention on behalf of over 100 Paraguayans disappeared in Argentina. Her bill asks the government to request information from the Argentine junta, and asks the Paraguayan embassy in Argentina to make contact with the families of the Paraguayan *desaparecidos*, "in order to clarify the facts" (*La Tribuna*, September 23).

Carmen Lara Castro, president of the Paraguayan Commission for the Defense of Human Rights, also spoke out for Paraguayans disappeared in Argentina in a visit to Buenos Aires, where she met in September with Dr. Edmundo Vargas Carreño, secretary of the Interamerican Commission for Human Rights.

Enervating climate

"Favorable laws are only applied to the momentarily privileged; odious laws fall exclusively on the backs of the unprivileged, which creates an enervating climate of social insecurity and unrest; not only partisan political divergencies which might be legitimate within a democratic national structure, but real squabbles and persecution among opponents, in open contradiction to the preaching of orthodox patriotism and nationalism.

"...The practice of religiosity concretized at the surface of the conscience, with ritual practices and perhaps the fulfillment of precepts, without coming to the conversion of the 'old man' into 'new man' in justice and truth. The idol of money, the thirst for profit, growing out of this era of rapid economic progress in the country. Luxury, accepted as a purpose of life, carries along with it the corruption of customs, the downfall of the family and class struggle, an apt climate for the easy diffusion of foreign and dissolute ideas, like marxism."

-- Msgr. Ismael Rolón, Archbishop of Asunción, in a pastoral letter entitled "A heritage which commits us" (La Tribuna, September 11)

Inter-American Commission: inconclusive conclusions

The Interamerican Commission on Human Rights published its annual report on October 5, and it was a disappointment to the Paraguayans who had admired their deep and detailed analysis last year. The most interesting part of the report was a long reply from Foreign Minister Alberto Nogués to last year's conclusions, dated July 2, 1979, which said among other things:

There are only 4 persons detained under the state of siege; "no one is deprived of freedom without the intervention of the appropriate judicial authorities..." That "each of the branches of government, Executive, Judicial and Legislative, act within their assigned spheres... It can in no way be admitted that the gentlemen of the Judicial Branch work with their hands tied or under pressure, as it has been affirmed." That "the free interplay of the democratic parties in Paraguay is a permanent, everyday experience", but that the National Agreement (Acuerdo Nacional) "tries to attract, in a precarious and circumstantial way, small political groups of varying doctrinal origin which are united in the purpose of subverting the constituted legal order and harming the external image of Paraguay."

On the state of siege: "The Government, despite all these manifestations of social danger, uses the measure prudently", and that the measure is used only in the capital city, "which is exposed to the dangerous proximity of an international border and to the contingencies of incitations to subversion, terrorism and urban guerrilla activities. Regulation of the constitutional faculty of the state of siege is an initiative which corresponds only to the legitimate leaders of the Paraguayan people, as represented in the National Congress." Mrs. Lara Castro, "the seditious president of a so-called Paraguayan Human Rights Commission which represents no one," was

called to appear in court "only to give informative testimony as requested by the state's attorney."

The Interamerican Commission refrained from commenting on the Foreign Minister's reply, and simply observed that there had been several changes since 1978: "In the first place almost all the political prisoners have been set free." Torture "has diminished considerably during 1978", although there is no indication that alleged torturers have been tried. "Also as a positive fact, the Commission observes that there has been less control over the printed press." The only criticism repeated this year is that "there have been no institutional changes which might diminish fears that the past will be repeated. The state of siege is still a constant factor in the life of most Paraguayans, as long as it continues in effect in the capital city of Asunción."

This year's recommendations include only three of the changes recommended in 1978: 1) a Commission visit to Paraguay; 2) lifting the state of siege; 3) freedom or trials for the four remaining prisoners. The Commission did not question the number of untried prisoners, although it had sufficient information to add the names of Escolástico Ovando, Román Martínez, and quite a few confirmed but unrecognized prisoners. Nor did the Commission insist on some of the other recommendations made last year, though there has been no movement toward compliance: the regularization of arrests with written orders, notification of families and medical supervision; protection of the rights of habeas corpus and amparo; punishment for those who abuse prisoners; protection for lawyers and judges.

The report comprises pages 150-165 of document 1101/79 of the General Assembly of the Organization of American States, titled "Annual Report of the Interamerican Human Rights Commission to the General Assembly"; it may be requested from the General Secretariat of the OAS, Washington, DC 20006.

Clamor

A special issue on Paraguay came out in *Clamor* last month, published by the *Comite de Defensa de los Derechos Humanos en el Cono Sur* (Av. Higienópolis 890, 01238 Sao Paulo SP, Brasil). It is entitled "Human Rights in Paraguay, 1978-79", and it represents an amplification and updating of information compiled and presented last May to several international human rights organizations. Its subjects include recent deaths, torture, irregular detentions and disappearances; considerations on legal justice; the press, political parties, human rights organizations, labor unions and churches in Paraguay.

BID report

Also in September, the Inter-American Development Bank (BID) published its annual report, including among its 520 pages a section on Paraguay. One paragraph of the report says: "The prospect for 1979 (and future years) is still favorable. According to projections the real GDP will increase on the order of 10% in 1979, several percentage points above the rate set as a goal in the current Economic Development Plan, which covers the period from 1978-1983. Besides continued work on the hydroelectric projects, this optimistic projection also reflects a larger crop area for the principal agricultural products, especially soybeans and cotton. Inflation is still the main concern, since an additional accumulation of foreign exchange is predicted. Although this situation may lead to the adoption of restrictive monetary measures, such action may be unnecessary if the action of the cen-

tral government in fiscal matters continues to improve as it did in 1977 and 1978 (*Ultima Hora*, September 10).

Political news

Colorado assemblies

After the Colorado Party assemblies in Asunción last August, the campaign opened in the interior for elections in November and December. The most controversial assembly will be in Fernando de la Mora, where the incumbent president, Senator Alfonso Colmán, "will put on the line his 10-year hegemony in this city, and with it the future of his economic power" (*La Tribuna*, September 15). His rival is Francisco Vergara, who is supported by Dr. Mario Melgarejo.

The campaign began with two incidents: Vergara partisans have denounced "a shooting spree several weeks ago in Tres Bocas, to intimidate the Women's Commission of our slate" (*ABC*, October 2), and the arrival of some 50 Colmán partisans "shooting revolvers, pushing, and totally inebriated" at a sub-precinct meeting on September 29. Colmán commented: "They are just trying to blow up a balloon. This is all a normal part of a political campaign... It is natural in a partisan struggle; it's a momentary thing" (*ABC*, September 30).

All kinds of problems become political because of the interdependence of economic and social interests with local bosses of the governing party. In other elections the political implications of commercial and labor actions rarely went beyond the level of local gossip; this year the local press has picked up such items -- but gingerly, and only when it could quote the main participants.

Thus, for example, the foreign firm of Carlos Casado S.A. has been accused of interfering in the local elections of Puerto La Victoria (formerly Puerto Casado), on the upper Paraguay River. Casado has a long history of labor problems, and last August it dismissed 151 lumber and chemical workers -- among them the two principal labor leaders. Although the precinct president, Tarcisio Sostoa, defended the company (saying that the recent flood and the need to build a new plant had led to the layoffs), it later appeared that the company was supporting Sostoa's rival, Obdulio Ojeda. According to *La Tribuna*, September 23, Ojeda announced the additional dismissal of another 50 workers because they supported Sostoa. "Misery, overcrowding, illness and filth are the characteristics of this town, which only recently began to seek improvements in their standard of living, led by the Sostoa group," said *La Tribuna*.

Casado vice-president Sergio Peralta Ramos commented that the Ministry of Justice and Labor and the national labor union CPT (which has not been able to decide what to do) supported the company. A local precinct leader expressed his frustration, saying, "If we protest against Casado, our precinct is sure to be intervened. But they never do anything about the Colorados who ally themselves with the company to persecute their fellow party members" (*La Tribuna*, September 24 and 26).

In Emboscada, Cordillera Department, some people thought it was a political maneuver when the Ministry of Education intervened a local school. The school was named after Andrés Ferreira, who has been the local precinct president for 25 years. Apparently the director and some teachers were supporting the opposition, and they resisted a recent decision to

manufacture insignias for required use on school uniforms, with the name of the school (the politician). But three parents went to Asunción to deny that the intervention was politically motivated, saying it was based only on technical and pedagogical factors (ABC, October 2 and 4).

Liberal convention

The former "legitimate directorate" of the Radical Liberal Party (PLR), led by Dr. Augusto Cáceres Carísimo, reunited with the Liberal Party led by Dr. Fulvio H. Celauro, on September 23. Cáceres became one of four vice-presidents on the enlarged Liberal directorate, and his fellow ex-Radicals were elected to two of six other offices.

"As long as they're going to another Liberal sector, it's fine," said PLR senator Enzo Doldán philosophically. "The risk would be if they were going over to the Colorado Party or another current besides ours" (*Ultima Hora*, September 25). But Dr. Justo Pastor Benítez asked the rules commission of the Chamber of Deputies to expel the five ex-Radicals who changed parties, calling them "political gypsies" (*UH*, September 14). Legislator Carlos Ferreira replied that Benítez -- whose own party status is unclear -- was a "political undesirable who has no place in any sector of Liberalism" (*UH*, September 19).

Patria editorialized for several days on "political minifundization" (an apt term in view of the historical relationship between minifundios and latifundios). Said the official daily: "Political parties should be gravitational and representative, they should respond to perfectly characterized principles and doctrines to establish their constitutional legality, and they should offer conditions of permanence and stability, so as to participate productively in the formation of elective authorities and in the orientation of national policy" (September 17, 1979).

Febrerista convention

The XI Ordinary Convention of the Febrerista Revolutionary Party will be held November 23-25, according to a recent press release. Drs. Euclides Acevedo and Carlos Caballero Gatti, and possibly also Dr. Ignacio Iramain, will be candidates for the party presidency.

Febrerista leaders have denounced a planned electoral "reform", designed "to outlaw the political parties which refuse to participate in the elections" (*La Tribuna*, September 23). Only the Febrerista Party would be affected, since the other abstentionist parties are not recognized by the Colorado-controlled electoral board. But a Colorado spokesman told the press that the bill in question is five years old, and its passage is "unlikely" (*La Tribuna*, October 10).

League mission ends

A mission to Paraguay from the International League for Human Rights ended on October 21, after a full week of interviews with the Interior Minister, independent newspaper editors, lawyers, ex-prisoners and prisoners' relatives (they were not allowed to see Laíño). Dr. David Helfeld, specialist in constitutional law at the University of Puerto Rico, and the Rev. William Wipfler of the National Council of Churches in the U.S.A., promised to make their findings available "well before Christmas".